IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Baljindra Singh & ors. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No.877/2003
against the order dated 19-8-2003 passed
by the Addl. Sessions Judge No.1, Sri
Ganganagar, in Criminal Revision No. 8/2002.

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Date of Order: November 07, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Pradeep Shah, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners have challenged the order dated 19-8-2003 passed by the Additional Sessions Judge No.1, Sri Ganganagar (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 8/2002, whereby the revision petition filed by the petitioners against the order dated 2-2-1994 passed by the Additional Chief Judicial Magistrate, Sri Ganganagar (for short, "the trial Court" hereinafter) was dismissed.

Heard learned counsel for the parties. Carefully gone through the orders passed by the trial Court as well as the Revisional Court.

The trial Court, by the order dated 2-2-1994 framed

charges against the petitioners for the offences under Sections 420, 465, 467, 468, 471 read with Sections 120-B and 193 IPC. That order came to be challenged by the petitioners before the Revisional Court. The Revisional Court, on examination of the material on record, came to the conclusion that the charges have rightly been framed by the trial Court on the basis of the material placed before it.

From the material placed before the Courts below, both the Courts below concurrently found that prima facie there is ground to proceed against the petitioners.

The only contention raised by the learned counsel for the petitioners is that the document which is said to be forged had already been filed way back in the proceedings of the Court of competent jurisdiction and, therefore, the complaint could have been filed by the Court and not by the complainant. This controversy came to be concluded by the decisions of the Hon'ble Supreme Court in Iqbal Singh Marwah & Anr. Vs. Meenakshi Marwah & Anr., (2005) 4 SCC 370, wherein the Hon'ble Supreme Court held as under:-

> "Clause (b) (ii) of Section 195 (1) contemplates a situation where the offence enumerated therein are committed with respect to a document subsequent to its production or giving in evidence in a proceeding in any court. The scheme of clauses (a) and (b) (i) of Section 195 (1) being that the offence described therein should be such which has direct bearing or affects the functioning or discharge of lawful duties of a public servant or has a direct correlation with the

> proceedings in a court of justice, the expression "when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court" occurring in clause (b) (ii) should normally mean commission of such an offence after the document has actually been produced or given in evidence in the Court. The situation or contingency where an offence as enumerated in this clause has already been committed earlier and later on the document is produced or is given in evidence in Court, does not appear to be in tune with clauses (a) (i) and (b) (i) and consequently with the scheme of Section 195 Cr.P.C."

The said view has been reiterated by the Hon'ble Supreme Court in K. Vengadachalam Vs.K.C. Palanisamy & ors., (2005) 7 SCC 352.

In this view of the matter, the provisions of Section 195 (1)(b) (ii) of the Code are not attracted. These provisions are attracted only if the document is forged after having been filed in the Court while it was record of the Court. In the instant case, the forging of document was made much prior to filing of the said document along with the suit. In the circumstances, therefore, no case for interference in the inherent jurisdiction is made out.

The criminal miscellaneous petition is dismissed.

(H.R. PANWAR), J.

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